REMARKS

1.   In response to the Office Action mailed August 26, 2005, Applicants respectfully request reconsideration. Claims 1-44 were originally presented for examination in this application. All claims were rejected in the outstanding office action. By the foregoing Amendments, claims 1, 2, 6, 7, 20, 21, 22, 27, 29 and 36 have been amended. Claim 45 has been added. No claims have been canceled. Thus, upon entry of this paper, claims 1-45 will be pending in this application. Of these forty-five (45) claims, six (6) claims (claims 1, 20, 29, 39, 44 and 45) are independent.   Based on the above Amendments and following Remarks, Applicants respectfully request that all outstanding objections and rejections be reconsidered, and that they be withdrawn. In addition, the finality of the Office Action is improper and should be withdrawn.

New Claims

2.   Support for new claim 45 is found in the specification on pages 15 and 17, paragraphs 37-40, FIGS. 3 and 5, as well as elsewhere throughout the originally filed specifications, drawings and claims.

Rejections under 35 U.S.C. § 112, Second Paragraph

3.   The Examiner is thanked for pointing out the specific objectionable language in claim 1. Claim 1 has been amended to comply with Section 112, second paragraph.

Rejections Under 35 Under U.S.C. §103(a)

4.   Claims 1-44 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 5,594,858 to Blevins (hereinafter "Blevins") in view of "Assay Explorer: Bringing Screening Software Up to Speed," Jonathan Wingfield (Molecular Connection, Winter 2000), hereinafter "Wingfield." Since the Examiner has made substantially the same arguments in the previous Office Action mailed on March 10, 2005, Applicants reassert all the previous arguments made by Applicants to these rejections. In addition, Applicants make the following additional arguments with respect to the claims as amended.

5.   Specifically, the Examiner asserts that Blevins substantially teaches Applicants' invention as recited in independent claim 1. The Examiner acknowledges on page 5, however, that Blevins fails to teach "providing one or more identifier[s] related to the use of the probe array used to acquire the biological information." Similarly, claim 1 as amended claims in part "generating a data template including one or more identifiers related to the use of the probe array."

6.   The Examiner then asserts that Blevins teaches identifiers ("data prompts are the identifiers related to the project") by referring Applicants to column 10, lines 1-5 of Blevins in which Blevins states: "the selection portion 224 provides a list of data prompts related to processes associated with the particular project that may be selected by a user to create[] the unique control template or modify an existing control template."

7.   The Examiner then turns to Wingfield for the missing portion of claim 1, mainly probe arrays. For this, the Examiner asserts that Wingfield teaches "table 1 with the experimental template comprising row id, plate id, ... and same as table 2 and 3) page 21." From this the Examiner concludes that this "experimental template comprising data which were [analyzed] from the sample plates [] is the probe array of the claimed invention."

8.   Based on the above, the Examiner asserts that it would have been obvious to one of ordinary skill in the art at the time the invention was made "to modify Blevins' system to include experimental templates including identifier, defined attributes and the results analyzer to analyze the samples plates as taught by [Wingfield] in order to create template to conduct biological experiment."

9.   Claim 1 as amended claims "acquiring one or more biological values of the biological information using a probe array to conduct the biological experiment." As stated before, the Examiner has not cited any portion of Blevins that teaches or suggests acquiring biological values using a probe array to conduct a biological experiment.

10.   The Examiner on page 3 of the Office Action states that the "biological experiment templates are the same as [] any experimental control template[s]." In making this statement, the Examiner appears to be improperly misconstruing the biological experiment templates claimed in the present application with the control templates in Blevins.

11.   As stated before, Blevins is related to process monitoring and control systems and, in particular, to a system for creating control templates that have attributes, methods, and

graphical views associated therewith that can be selected by a user to design process control solutions and from which a user can create a unique display of a view such as an engineer's view, operator's view, controller's view, and the like. (*See*, Blevins, col. 1, lns. 16-26.) Blevins states that the "[c]ontrol of the process is often implemented using microprocessor based controllers or computers which monitor the process by sending and receiving commands and data to hardware devices to control a particular aspect of the process or the entire process as a whole." (*See*, Blevins, col. 1, lns. 40-44.)

12.   This is quite different from a biological experiment, where instead of control, the process measures, monitors and records the experiment. Even if the Examiner properly construed the differences and stated that the biological experimental templates are the same as the process control templates, which they are not, the Examiner has not shown any support for this proposition in Blevins or any other reference. Blevins, therefore, fails to disclose, teach or suggest this limitation of Applicants' claim 1.

13.   In addition, these claims have been rejected on the basis of facts within the personal knowledge of the Examiner. Accordingly, under 37 C.F.R. § 1.104(d)(2) the Applicants hereby request that the Examiner provide an affidavit supporting the Examiner's assertion that "biological experiment templates are the same as [] any experimental control template" used as a basis for this rejection, or, in the alternative, to withdraw the rejection of the claims.

14.   To support a *prima facie* obviousness rejection the Examiner must establish that there is some suggestion or motivation to combine the references. (*See* MPEP §§ 706.02(j) and 2143.) The fact that the references can be combined is not sufficient to establish *prima facie* obviousness. (See MPEP § 2143.01). The Federal Circuit has emphasized the importance of providing objective evidence to support specific factual finding with respect to the motivation to combine the reference. (*See In re Lee*, 277 F.3d 1338, 1342-44 (Fed. Cir. 2000)).

15.   The Examiner has not cited any portion that Blevins that would provide motivation to combine Blevins with Wingfield. The cited portion of Blevins relates to a user selecting data prompts to create a unique control template or to modify an existing control template. The data prompts are not used as identifiers in the biological template to receive the biological values generated by the biological experiment as claimed in claim 1. Rather the

data prompts are selected to create the control template, but not used to receive values. Thus, Examiner's statement that Blevins "teaches data prompts are the identifiers related to the project" is incorrect. This portion does not relate to "generating a data template including one or more identifiers related to the use of the probe array" as stated in amended claim. Further this cited portion does not provide motivation to combine a control template with the teachings of Wingfield. The Examiner is simply asserting that Blevins and Wingfield can be combined without providing any objective evidence to support the motivation. Therefore, this cited portion of Blevins fails to provide objective evidence to support the motivation and the Examiner has failed to establish a *prima facie* case of obviousness.

16. Since there is no objective evidence to support the rejection of these claims, these claims have been rejected on the basis of facts within the personal knowledge of the Examiner. Accordingly, under 37 C.F.R. § 1.104(d)(2) the Applicants hereby request that the Examiner provide an affidavit supporting the Examiner's assertion that the combination of Blevins in view of Wingfield is *prima facie* proper, or, in the alternative, to withdraw the rejection of the claims.

17. In addition, the Examiner stated that the resulting combination would modify Blevins' system to include experimental templates including identifiers, defined attributes and the results analyzer to analyze the samples plates as taught by Wingfield. Whether or not this combination results in such a combination is irrelevant, because claim 1 as amended claims "generating a data template including one or more identifiers related to the use of the probe array; specifying in the data template one or more biological attributes for each of the one or more identifiers." Amended claim 1 does not and previously presented claim 1 did not claim a results analyzer to analyze the sample plates.

18. The Examiner also asserts that Blevins teaches "...generating a data template including at least one of the one or more identifiers, wherein the data template is configured to receive a value for each at least one identifier, said value representing the attribute specified for that identifier for the biological experiment..." as recited in Applicants' previous claim 1. For the reasons noted above, Blevins fails to teach or suggest providing a data template configured to receive Applicants' identifiers as currently claimed. In addition, this element of amended claim 1 explicitly recites that the values

received in the data template are the "one or more **biological values** for at least one of the one or more identifiers in accordance with the one or more **biological attributes**." (emphasis added). Since Blevins teaches only creating user-type-specific control templates for process monitoring and control systems, and neither teaches nor suggests managing information, particularly biological information, Applicants respectfully submit that Blevins also fails to teach this element of Applicants' claimed invention.

19.   The Examiner asserts that Blevins teaches " ... receiving by the data template a value for the at least one identifier in accordance with the attribute specified for the identifier ..." as previously claimed. This assertion is also misplaced with respect to the claim as currently amended. The Examiner cites col. 17, lines 7-10 in support of this assertion. There, Blevins states "[t]he smart field 1018 can provide information to the user regarding the value of an input or output or may even provide a real time chart of trend data relating to input or output data values." (*See*, Blevins, col. 17, lns. 7-10.). As stated and as shown in FIG. 10 of Blevins, this is a display of a value of a previously defined input or output. (*See*, Blevins, col. 16, lns. 60-67.). Displaying previously defined values in no way is analogous to receiving a biological value for an identifier in accordance with an attribute specified for that identifier. Blevins, therefore, fails to disclose, teach or suggest these limitations of Applicants' amended claim 1 alone or in combination with Wingfield.

20.   Likewise, Wingfield fails to teach or suggest that which is missing from Blevins. As previously stated, Wingfield is directed to a conventional biological data management software package. In response to Applicant's arguments that Wingfield fails to show the previous claimed features of "receiving a specification of at least one attribute of a selected at least one of the one or more identifiers; and generating a data template including at least one of the one or more identifiers, wherein the data template is configured to receive a value for each at least one identifier, said value representing the attribute specified for that identifier for the biological experiment...," the Examiner stated that "Blevins discloses the experimental template having selected attributes and the values for these attributes are entered by the user." As stated above, the Examiner has not cited any portion of Blevins that shows an experimental template. Further, the Examiner made the following statement that the "passage in Wingfield would further clarify the specifications of at least one attribute is selected in order to generate the control or experimental template as disclose[d]

by Blevins." However, Wingfield is being used, improperly as noted above, by the Examiner to teach providing one or more identifier related to the use of the probe array which is used to acquire the biological information. The Examiner has not used Wingfield alone or in combination with Blevins to reject any claim by further clarifying the specification of at least one attribute is selected in order to generate the control or experimental template. This feature is not part of amended claim 1. As claimed in amended claim 1, the attribute is not selected and does not generate the control or experimental template. Instead, claim 1 states "specifying in the data template one or more biological attributes for each of the one or more identifiers; and receiving in the data template the one or more biological values for at least one of the one or more identifiers in accordance with the one or more biological attributes." Therefore, Wingfield is unable to teach all the features of amended claim 1 alone or in combination with Blevins, and claim is patentable.

21.   Further, the rejection of these claims is rejected on the basis of facts within the personal knowledge of the Examiner. Accordingly, under 37 C.F.R. § 1.104(d)(2) the Applicants hereby request that the Examiner provide an affidavit supporting the Examiner's assertion that the passage of Wingfield or the combination of Wingfield with Blevins specifies at least one attribute to generate the control or experimental template, or, in the alternative, to withdraw the rejection of the claims.

22.   Thus, for at least the reasons noted above, Applicants respectfully assert that, contrary to the Examiner's assertions, Blevins taken alone or in combination with Wingfield fails to teach or suggest Applicants' claimed invention as recited in claim 1. For at least this reason, Applicants respectfully assert that the Examiner has failed to support a *prima facie* Section 103 rejection of independent claim 1. Accordingly, Applicants respectfully assert that for at least these reasons the Section 103 rejection of Applicants' claim1 is *prima facie* improper, and should be reconsidered and withdrawn.

23.   For reasons similar to those noted above, Applicants respectfully request that the Section 103 rejection of independent claims 20, 29, 39 and 44 be reconsidered and withdrawn.
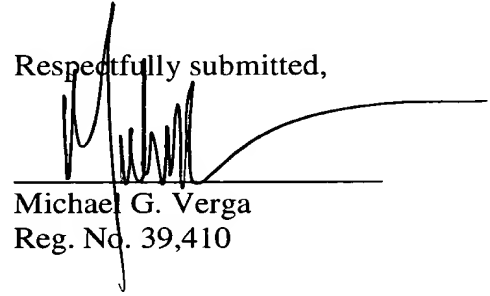
Dependent Claims

24.   The dependent claims depend directly or indirectly from their respective base claim and are allowable for at least the same reasons as those noted above. Further, Applicants submit that each of these dependent claims are also patentable in and of themselves because they each recite features that are not anticipated nor rendered obvious by the art of record.

Conclusions

25.   In view of the foregoing Amendments, this application should is in condition for allowance. A notice to this effect is respectfully requested.

Respectfully submitted,

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